

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte CARL E. WHITCOMB

Application No. 10/075,096

MAILED

MAY 16 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 16, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Information Disclosure Statement dated March 10, 2004 needs to be considered by the Primary Examiner with respect to compliance with the criteria set forth in 37 CFR §§ 1.97 and 1.98. A written communication notifying appellant of the Primary Examiner's decision is required.

Additionally, on July 1, 2004, the examiner mailed an examiner's answer. However, the appeal conference is improper. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3)

another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

...

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their names. This will make the record clear than an appeal conference has been held.** (Emphasis added).

Proper correction of the Examiner's Answer is required.

Accordingly, it is

ORDERED that the application is electronically returned to the Examiner (1) for consideration of the Information Disclosure Statement, (2) correction of the Examiner's Answer mailed July 1, 2004, showing that a proper appeal conference has been held, (3) written notification to appellant and to items (1) and (2) above, and (4) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES



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